

REMARKS

Claims 1-22 are pending in the application and all were rejected in the Office action mailed July 25, 2007. Claims 2 and 4 have been cancelled, and claims 1, 6, 7, 15, 16, and 19-21 have been amended. Claims 1 and 15 are independent claims. Claims 3, 5-14, and 16-22 depend from independent claims 1 and 15, respectively.

Applicant respectfully requests reconsideration of pending claims 1, 3, and 5-22, in view of the following remarks.

Rejection of Claims

Claims 1-22 were rejected under 35 U.S.C. 102(e) as being anticipated by O'Neill (US 6,832,373). The Applicant respectfully traverses the rejection. Nevertheless, Applicant has amended claims 1 and 15 to more clearly define the subject matter of the claims. Claims 6, 7, 16, and 19-21 have been amended to be consistent with the amendments to claims 1 and 15.

With regard to the anticipation rejections, MPEP 2131 states, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 2 USPQ2d 1051, 1053 (Fed.Cir. 1987). MPEP 2131 also states, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

With regard to amended claim 1, the Applicant respectfully submits that O'Neill fails to teach or suggest, for example, "...[a] mobile services network comprising a mobile electronic device; a management server; an update package repository; and a generator for generating an update package used in updating firmware in the mobile electronic device from a first version to a second version, the update package comprising encoded difference information and a shift region list that identifies at least one region of the first version of firmware and an associated offset that when applied by shifting the at least one region within the first version of firmware before generation of

the encoded difference information produces a modified first version in which the at least one region more closely aligns to a corresponding region of the second version of firmware.”

Applicant respectfully submits that O’Neill discloses “...an update generator that compares an image of the first plurality of digital information sequences comprising the updated operating code to an image of the second plurality of digital information sequences comprising the resident operating code and identifies differences between of the updated operating code and the resident operating code and thereafter generates an update package comprising an instruction set which specifies how to generate the updated operating code utilizing at least a portion of the second plurality of digital information sequences of the resident operating code.” (Col. 4, lines 2-13)

However, Applicant respectfully submits that O’Neill does not teach or suggest, at least, “... a generator for generating an update package ... comprising encoded difference information and a shift region list that identifies at least one region of the first version of firmware and an associated offset that when applied by shifting the at least one region within the first version of firmware before generation of the encoded difference information produces a modified first version in which the at least one region more closely aligns to a corresponding region of the second version of firmware...”, as recited in Applicant’s amended claim 1.

Applicant respectfully submits that O’Neill fails to teach or suggest, at least, “...identify[ing] at least one region of the first version of firmware and an associated offset...”, in accordance with Applicant’s amended claim 1. O’Neill says nothing regarding offsets associated with regions of a version of firmware. O’Neill is simply silent in this regard. Accordingly, O’Neill fails to teach or suggest an update package comprising a list of such identified regions.

Applicant also respectfully submits that O’Neill does not teach or suggest, at least, “...shifting the at least one region within the first version of firmware before generation of the encoded difference information...”, as recited in Applicant’s amended claim 1. O’Neill fails to disclose anything with respect to shifting regions within a version

of firmware to produce a modified version of the firmware, and in particular, with respect to doing so before generating difference information.

In addition, Applicant respectfully submits that O'Neill is silent with respect to offsets associated with regions of a first version of firmware, and of an update package comprising a list identifying regions of firmware and associated offsets.

Applicant respectfully submits that because O'Neill fails to teach, at least, these aspects of claim 1 set forth above, O'Neill necessarily fails to teach or suggest an "... update package comprising encoded difference information and a shift region list that identifies at least one region of the first version of firmware and an associated offset that when applied by shifting the at least one region within the first version of firmware before generation of the encoded difference information produces a modified first version in which the at least one region more closely aligns to a corresponding region of the second version of firmware...", as recited in Applicant's amended claim 1.

Based at least upon the above, Applicant respectfully submits that O'Neill fails to teach or suggest each and every element of Applicant's amended claim 1, as required by M.P.E.P. §2131, that the Office has failed to establish a *prima facie* case of anticipation, and that a rejection of claim 1 cannot be maintained.

Therefore, Applicant believes that amended claim 1 is allowable, for at least the reasons set forth above. Applicant respectfully submits that claims 3 and 5-14 depend from claim 1. Because claims 3 and 5-14 depend from allowable claim 1, Applicant respectfully submits that claims 3 and 5-14 are also allowable, for at least the same reasons. Therefore, Applicant respectfully requests that the rejection of claims 1-14 under 35 U.S.C. §102(e) be withdrawn.

With regard to amended claim 15, the Applicant respectfully submits that O'Neill fails to teach or suggest, for example, "... [a] method for generating an update package using a first version and a second version of firmware in a mobile services network, the method comprising creating a module map identifying one or more modules in the first version of firmware and corresponding modules in the second version of firmware, wherein each module comprises a region of firmware; creating a shift region list that

identifies at least one region of the first version of firmware and an associated address adjustment that when applied by shifting the at least one region within the first version of firmware before generation of encoded difference information produces a modified first version in which the at least one region more closely aligns to a corresponding region of the second version of firmware; and generating an update package using the encoded difference information and the shift region list.”

Applicant respectfully submits that O'Neill discloses "...a plurality of client modules that are respectively resident on each of the plurality of electronic devices, wherein the plurality of client modules access the distribution system and receive the update package and wherein the instruction set of the update package is executed by the client modules so as to generate the updated operating code by utilizing a least a portion of the second plurality of digital information sequences from the resident operating code...." (col. 4, lines 17-25) O'Neill also discloses "...a plurality of client modules that are respectively resident on each of the plurality of distributed electronic set, wherein the plurality of client modules accesses the distribution system so as to be able to receive the update package, wherein the instruction set provides instructions to the client modules such that the client modules generates at least a portion of the plurality of data blocks comprising the updating operating code by utilizing the plurality of data blocks comprising the resident operating code." (col. 4, line 65 to col. 5, line 7) In addition, O'Neill discloses "...a plurality of client modules that are respectively resident on each of the plurality of distributed electronic set, wherein the plurality of client modules accesses the distribution system so as to be able to receive the update package, wherein the instruction set provides instructions to the client modules such that the client modules modifies the resident operating code into the updated operating code and wherein the client modules generates at least a portion of the update data blocks by utilizing the received instruction set to perform operations on the data blocks of the resident operating code to generate the update data blocks." (col. 5, line 27-37) However, Applicant respectfully submits that O'Neill does not teach or suggest, at least, "...creating a module map identifying one or more modules in the first version of firmware and corresponding modules in the second version of firmware, wherein each

module comprises a region of firmware...”, as recited in amended claim 15. Applicant respectfully submits that O’Neill fails to say anything with respect to a module map that identifies corresponding modules in versions of firmware, wherein each module comprises a region of firmware. Therefore, Applicant respectfully submits that O’Neill fails to teach or suggest at least this aspect of Applicant’s amended claim 15.

In addition, Applicant respectfully submits that O’Neill fails to teach or suggest, at least, “...creating a shift region list that identifies at least one region of the first version of firmware and an associated address adjustment that when applied by shifting the at least one region within the first version of firmware before generation of encoded difference information produces a modified first version in which the at least one region more closely aligns to a corresponding region of the second version of firmware...”, as recited in Applicant’s amended claim 15.

Applicant respectfully submits that O’Neill fails to disclose anything with respect to alignment of a region of a first version of firmware with a corresponding region in a second version of firmware. O’Neill is simply silent in this regard.

Applicant also respectfully submits that O’Neill fails to teach or suggest anything with regard to shifting at least one region within a first version of firmware before generation of encoded difference information. O’Neill simply fails to disclose anything in this regard.

In addition, Applicant respectfully submits that O’Neill is silent with respect to address adjustments associated with regions of a first version of firmware.

Applicant respectfully submits that because O’Neill fails to teach those aspects of claim 15 set forth above, O’Neill necessarily fails to teach or suggest an “...generating an update package using the encoded difference information and the shift region list ...”, as recited in Applicant’s amended claim 15. Therefore, Applicant submits that the O’Neill reference fails to teach at least these aspects of Applicant’s amended claim 15.

Based at least upon the above, Applicant respectfully submits that O’Neill fails to teach or suggest each and every element of Applicant’s amended claim 15, as required by M.P.E.P. §2131, that the Office has failed to establish a *prima facie* case of anticipation, and that a rejection of claim 15 cannot be maintained.

Therefore, Applicant believes that amended claim 15 is allowable, for at least the reasons set forth above. Applicant respectfully submits that claims 16-22 depend from amended claim 15. Because claims 16-22 depend from allowable claim 15, Applicant respectfully submits that claims 16-22 are also allowable, for at least the same reasons. Therefore, Applicant respectfully requests that the rejection of claims 15-22 under 35 U.S.C. §102(e) be withdrawn.

Conclusion

In general, the Office Action makes various statements regarding claims 1-22 and the cited references that are now moot in light of the above. Thus, Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

The Applicant believes that all of claims 1, 3, and 5-22 are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, the Applicant invites the Examiner to contact the undersigned at (312) 775-8000 for an interview.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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